

PERMIT NUMBER LAG870000

FACT SHEET

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FACT SHEET

As required by LAC 33:IX.3111 for LPDES general permits, for draft Louisiana Pollutant Discharge Elimination System Permit No. LAG870000 to discharge to waters of the State of Louisiana as per LAC 33:IX.Chapter 31.

GENERAL PERMIT NO. LAG870000**AI 169705****PER20100001****DISCHARGES RESULTING FROM THE APPLICATION OF PESTICIDES**

FACT SHEET FOR THE DRAFT LOUISIANA POLLUTANT DISCHARGE ELIMINATION SYSTEM (LPDES) PERMIT FOR THE APPLICATION OF PESTICIDES INTO OR NEAR WATERS OF THE STATE.

Permit No. LAG870000

Issuing Office: State of Louisiana
Department of Environmental Quality
Office of Environmental Services
Water Permits Division
Municipal and General Water Permits Section

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Permit Action: Issuance of a General Permit for the Application of Pesticides

Date Prepared November 5, 2010

I. COVERED ACTIVITY

This LPDES general permit is being issued to authorize discharges associated with application of pesticides to waters of the state, either directly or indirectly. This permit covers discharges of pesticides associated with the four (4) use categorizations defined under Part I, Section A. Applicability.

Use Categorizations:

1. Mosquito and Other Flying Insect Pest Control - to control public health/nuisance and other flying insect pests that develop or are present during a portion of their life cycle in or above standing or flowing water. Public health/nuisance and other flying insect pests in this use category include but are not limited to mosquitoes and black flies
2. Aquatic Weed and Algae Control - to control invasive or other nuisance weeds and algae in water and at water's edge, including irrigation ditches and/or irrigation canals
3. Aquatic Nuisance Animal Control - to control invasive or other nuisance animals in water and at water's

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edge. Aquatic nuisance animals in this use category include, but are not limited to fish, lampreys, and mollusks

4. Forest Canopy Pest Control – aerial application of a pesticide over a forest canopy to control the population of a pest species (e.g., insect or pathogen) where to target the pests effectively a portion of the pesticide unavoidably will be applied over and deposited to water

These four use categorizations defined above can be found under the use categorizations defined at LAC 7:XXIII.125.B.

- a. Mosquito and Other Flying Insect Pest Control, can be found under LAC 7:XXIII.125.B.2.h., Public Health Pest Control
- b. Aquatic Weed and Algae Control can be found under LAC 7:XXIII.125.B.2.e, Aquatic Pest Control
- c. Aquatic Nuisance Animal Control can be found under LAC 7:XXIII.125.B.2.e Aquatic Pest Control and LAC 7:XXIII.125.B.2.h Public Health Pest Control.
- d. Forest Canopy Pest Control can be found under LAC 7:XXIII.125.B.2.b.i Forest Pest Control – General Forestry

Pesticide is defined in the Louisiana Pesticide Law (L.R.S 3:3202) as meaning any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest and any substance or mixture of substances intended for use as a plant regulator, defoliant, desiccant, or any substance the commissioner [Commissioner of the LA Department of Agriculture and Forestry (LDAF)] determines to be a pesticide. So, throughout this fact sheet and permit, 'pesticide' will include a wide range of substances.

II. OBTAINING COVERAGE

All dischargers that fall into one or more of the use categorizations defined in I. above are authorized to apply pesticides under this general permit. They are not required to submit a Notice of Intent (NOI) and are automatically covered upon the effective date of this permit. However, they are required to maintain all records and information required under LAC 7:XXIII.167.

LAC IX:2515.B.2.e states that authorization to discharge under this permit may, at the discretion of the State Administrative Authority, be granted without submitting a notice of intent where the State Administrative Authority finds that a notice of intent requirement would be inappropriate. In making such a finding, the State Administrative Authority shall consider:

- the type of discharge;
- expected nature of the discharge;
- the potential for toxic and conventional pollutants in the discharge;
- the expected volume of the discharges;
- other means of identifying dischargers covered by the permit; and
- the estimated number of dischargers to be covered by the permit.

Type of Discharge

The general permit authorizes the discharges associated with application of pesticides to waters of the state, either directly or indirectly. Direct application of pesticides to waters of the state includes spraying (weeds on

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ditch banks and roads, aquatic vegetation in water bodies, and mosquito control activities). Indirect application of pesticides to waters of the state includes the application of granules or powders for control of fire ants, fleas, and other insects. Although not applied to waters of the state, these pesticides or their residuals may reach waters of the state during rainfall runoff events.

This permit also authorizes the discharge of storm water runoff from facilities which handle or use pesticides provided the pesticides are handled and stored in accordance with Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) instructions specified on the container label and there has been no spillage or leakage which has not been cleaned up.

Some of the activities covered under this permit may be considered short-term activities that are necessary to accommodate activities, emergencies, or to protect the public health and welfare, as described in LAC 33:IX.1109.E.

This permit does not apply to the application of pesticides to areas which are exempt from LPDES permitting (see LAC 33:IX.2315). These include, but are not limited to:

- a. Discharges from agricultural and silvicultural activities including storm water runoff from orchards, cultivated crops, pastures, range lands, and forest lands.
- b. Discharges associated with the normal operations of a vessel.
- c. Return flows from irrigated agriculture.

Expected Nature of the Discharge

"Pesticide" is defined in the Louisiana Pesticide Law (La.R.S 3:3202) as any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest and any substance or mixture of substances intended for use as a plant regulator, defoliant, desiccant, or any substance the commissioner [Commissioner of the LA Department of Agriculture and Forestry (LDAF)] determines to be a pesticide. Therefore, "pesticide" includes a wide range of substances. There are over 500 active ingredients and 900 inert chemicals in the pesticides currently registered with EPA FIFRA.

Pesticides are used in ways to have a positive affect on some aspect of society; for example, spraying for mosquito control; applying herbicides to control aquatic vegetation to enhance the designated uses of water bodies; for weed control along roads, ditch banks, and utility right-of-ways; and the control of other pests. Timing related to the application of pesticides will be highly variable depending on the nature and timing of the pests. Normally, any delays will cause the pest problem to be worse and require the use of more pesticides over a larger area.

Potential for Toxic and Conventional Pollutants in the Discharge

Toxic pollutants have historically been considered to be the list of 126 priority pollutants. In addition to metals and organic pollutants, the list includes 20 pesticides. Only 2 of these pesticides are still allowed by FIFRA and state regulations. Therefore, there is only a limited potential for these toxic pollutants to be discharged and those which could be discharged will be limited by the dose amount specified on the FIFRA label.

In an EPA training manual (U.S. EPA NPDES Permit Writers' Manual, EPA-833-B-96-003), a toxic pollutant is described as being a pollutant or a combination of pollutants, including disease-causing agents, which after

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discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction), or physical deformations, in such organisms or their offspring. Toxic pollutants also include those pollutants listed by the Administrator under Clean Water Act Section 307(a). Part III of the permit prohibits the discharge of any 307(a) toxic pollutant in excess of any limitation or standard promulgated under Section 307(a).

The purpose of pesticides is to be toxic to some type of organism. These chemicals are currently regulated and used in ways to have a positive affect on some aspect of society. FIFRA regulates the distribution, sale, and use of pesticides. One of the primary components of FIFRA requires the registration and labeling of all pesticides sold or distributed in the U.S. ensuring that if pesticides are used in accordance with the specifications on the label, they will not cause adverse effects on humans or the environment. It is a requirement of this permit that any registered pesticide must be used in accordance with its FIFRA label. This is included as a binding permit requirement because FIFRA label requirements are established after research, approved by the EPA Office of Prevention, Pesticides, and Toxic Substances, and ensure that the pesticide, when used according to the label, can be used so that it will not cause unreasonable adverse affects on humans or the environment. The FIFRA label will include application rates for target organisms as well as warnings on possible impacts on non-target organisms.

The LDAF requires each pesticide to be registered or re-registered annually. There are about 11,000 products registered as pesticides by LDAF. Any person who applies a restricted use pesticide must be certified or be under the direct supervision of a person who is certified by LDAF. The certification process includes training and passing a written exam. The application of any pesticide which is not in accordance with the instructions on the FIFRA label is not authorized under this general permit. The discharge of conventional pollutants is not expected to have significant impact. Conventional pollutants are BOD₅, TSS, fecal coliform bacteria, oil & grease, and pH.

LDAF has monitored 47 ambient sites at least quarterly between 1991 and 2008 and currently monitors these sites semi-annually. There are 32 water body segments list as impaired for pesticides, but only 2 of these are impaired for pesticides which are currently allowed. The suspected cause of impairment from these 2 pesticides is crop production; which is not included in this permit because this activity is exempt from permitting by the Clean Water Act.

Expected Volume of the Discharge

The volume of the discharge will be highly variable depending on conditions and the need of pesticides throughout the state. However, the expected concentration and volume of the pesticide discharged during an application activity is limited by the instructions and application rate on the FIFRA label. All mechanically powered pesticide application equipment must be inspected by LDAF and have a current decal from LDAF. The purpose of this is to ensure that the equipment is delivering the prescribed amount.

Other Means of Identifying Dischargers Covered by the Permit

Any person who applies a restricted use pesticide must be certified or be under the direct supervision of a person who is certified by LDAF. Every owner-operator of a pesticide application business must have a current

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license issued by LDAF before making any applications of pesticides. Therefore, the identification of any person applying a restricted use pesticide or of any commercial applicator is available from LDAF.

Any person applying pesticides for a fee and commercial applicators shall maintain, for a period of 3 years, records of pesticide applications.

The following information shall be recorded:

- a. owner/operator name, address, and license number;
- b. certified applicator, name, address, and certification number;
- c. customer name and address;
- d. product/brand name;
- e. EPA registration number;
- f. restricted/general use pesticide;
- g. application date;
- h. crop/type of application;
- i. location of application;
- j. size of area treated (acres, square feet, or minutes of spraying);
- k. rate of application;
- l. total amount of product (concentrate) applied;
- m. applicator;
- n. certification number of applicator (if applicable).

Non-fee commercial applicators described below shall accurately maintain, for a period of three years, records of applications of all pesticides as described above.

- a. applicators who apply or supervise the application of restricted use pesticides on a non-fee basis in, on or around institutions, motels, hotels, hospitals and like places as the owner or in the employ of the owner and for persons applying or supervising the application of any pesticide for grass and weed control and rodent and general pest control in, on, or around structures or grounds of government subsidized and administered housing and multiplex housing.
- b. applicators who apply, or supervise the application of, restricted use pesticides on a non-fee basis in, on, or around commercial grain elevators and other grain handling establishments, feed mills, flour mills, food processing plants, and other places where processed or unprocessed foods are stored, as the owner or in the employ of the owner.
- c. applicators who apply or supervise the application of pesticides on a non-fee basis for grass and weed control and rodent and general pest control (roaches, wasps, and ants) or restricted use pesticides, in, on, or around structures and grounds of schools that provide education for classes kindergarten through 12. Each certified applicator shall annually train all persons applying pesticides under his/her supervision in the proper handling, storage, use, application and disposal of pesticides.

General use pesticides may be purchased from a variety of retail outlets and used by the general public. It is not practical or appropriate for the LDEQ to identify individual members of the general public who are applying pesticides for general use.

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Estimated Number of Dischargers to be Covered by the Permit

There are 13,012 applicators certified by LDAF to apply restricted use pesticides (7,671 private and 5,341 commercial). There are more than 1200 pesticide application businesses with a license issued by LDAF. These 1200 pesticide application businesses with a license do not include government agencies, such as LA Dept of Transportation and Development, LA Wildlife and Fisheries, mosquito control districts, parishes, and local governments.

CONCLUSION

After considering the six factors discussed above, and because the LDAF already has requirements for certification of applicators and licensing of business applying pesticides, and because of the large number of certified applicators; the State Administrative Authority has made the determination not to require the submission of an NOI to be authorized to discharge a pesticide in accordance with this general permit.

III. DISCHARGE DESCRIPTION

This permit authorizes those dischargers identified in the use categorization under I. above to discharge pesticides in accordance with state laws and regulations and FIFRA which include all instructions on the pesticide label.

This permit also authorizes the discharge of storm water runoff from facilities which handle or use pesticides provided the pesticides are handled and stored in accordance with FIFRA instructions specified on the container label and there has been no spillage or leakage which has not been cleaned up. Storm water coverage under this permit is not applicable to facilities which qualify for coverage under the Multi-Sector General Permit, LAR050000.

This permit does not authorize other discharges (such as treated sanitary waste water, equipment wash water, or wash water from cleaning storage or mixing tanks) from facilities which handle or use pesticides.

LPDES regulations prohibit the discharge of pollutants from any point source into waters of the state without a water discharge permit. Federal court rulings have determined that the application of pesticides results in the discharge of pollutants from a point source. Therefore, for the purpose of this general permit any application of a pesticide constitutes a point source as well as any storm water runoff from areas where pesticides are handled, used, or applied.

LPDES regulations allow for the issuance of general permits when the activities covered:

1. involve the same or substantially similar types of operations,
2. discharge the same types of wastes,
3. require the same effluent limitations or operating conditions,
4. require the same or similar monitoring, and
5. in the opinion of the state administrative authority, are more appropriately controlled under a general permit than under individual permits.

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This permit authorizes the use of chemicals, all of which are approved under FIFRA, and are considered necessary for society (for example, control insects related to human health, control aquatic vegetation to enhance the uses of water bodies, and the control of weeds along roads and ditches). The timing associated with the application of pesticides is critical in the rapid control of undesirable pests and vegetation and to minimize the use of pesticides. Therefore, the State Administrative Authority has determined that it is more appropriate to control the application of pesticides under a general permit rather than individual permits.

The purpose of this general permit is to establish conditions applicable to the use of all chemicals meeting the requirements of state laws and regulations and FIFRA. Activities covered under this permit include, but are not limited to, mosquito abatement projects, algae and weed control projects, fish eradication projects, and other pest control activities.

Many of the permittees authorized to apply pesticides in accordance with this general permit will be government agencies – LA Department of Transportation and Development (DOTD) to spray road ditches, parish or city governments to spray drainage ditches, parish or city governments to spray for mosquito control, and LA Wildlife and Fisheries (WLF) spraying to control aquatic vegetation. However, this permit also covers companies and individuals which may apply pesticides directly to waters of the state or where runoff may carry the substance or residuals to waters of the state.

This permit does not apply to the application of pesticides to areas which are exempt from LPDES permitting (see LAC 33.IX:2315). These include, but are not limited to:

- a. Discharges from agricultural and silvicultural activities including storm water runoff from orchards, cultivated crops, pastures, range lands, and forest lands.
- b. Discharges associated with the normal operations of a vessel.
- c. Return flows from irrigated agriculture.

Should a discharge from any of these activities cause a violation of water quality standards (LAC 33.IX:Chapter 11), the discharger will be subject to enforcement action under the Louisiana Environmental Quality Act.

This general permit shall not apply to:

- a. discharges which have limits assigned to them in the Louisiana Water Quality Management Plan or an approved Waste Load Allocation;
- b. discharges containing pesticides to waterbodies which have suspected causes of impairments listed which include that pesticide as identified in the 303(d) list;
- c. discharges containing restricted use pesticides to waterbodies which have suspected causes of impairments listed which include any pesticide as identified in the 303(d) list;
- d. discharges which are likely to have unauthorized adverse effects upon threatened or endangered species, or on the critical habitat for these species as determined in conjunction with the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS);
- e. discharges which adversely affect properties listed or eligible for listing in the National Register of Historic Places, unless they are in compliance with requirements of the National Historic Preservation Act and any necessary activities to avoid or minimize impacts have been coordinated with the Louisiana State Historic Preservation Officer (for questions, the operator should contact the Section 106 Review Coordinator, Office of Cultural Development, P. O. Box 44247, Baton Rouge, LA 70804-4247 or

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- telephone (225) 342-8170);
- f. discharges, as indicated by evidence, indicating the reasonable potential to cause or contribute to a violation of a water quality standard;
 - g. coverage under this permit if any of the following circumstances apply, the discharges are covered by another LPDES permit or the discharges were included in a permit that within the last five years has been or is in the process of being denied, terminated, or revoked.
 - h. Application of pesticides to Outstanding Natural Resource Waters (ONRWs). However, there may be unusual situations where pesticide application may be allowed in order to maintain use and status of the water body. An example of this would include application of a pesticide to control an invasive aquatic plant species that is having a deleterious effect on the dissolved oxygen and other parameters of the ONRW. Other examples would include application of a pesticide for the protection of human health and safety.

The Department may deny coverage under this permit and require submittal of an application for an individual LPDES permit based on a person's compliance record, ambient water quality data, or any other information relative to the application of pesticides. This Office reserves the right to issue such persons an individual LPDES permit with more specific limitations and conditions.

IV. DISCHARGE LOCATION

Within the geographic boundaries of the State of Louisiana.

V. RECEIVING STREAM/USES

A covered activity may discharge to or flow to any water body within the geographic boundaries of the State of Louisiana, as defined in LAC 33:IX.1123 and 2313.

The possible designated uses of the receiving streams are:

- Primary Contact Recreation
- Secondary Contact Recreation
- Propagation of Fish and Wildlife
- Oyster Propagation
- Drinking Water Supply
- Agriculture
- Outstanding Natural Resource Waters
- Limited Aquatic Life and Wildlife Use

VI. PROPOSED EFFLUENT LIMITATIONS AND/OR CONDITIONS

The specific effluent limitations and/or conditions will be found in the permit. Development of permit limits is detailed in the Permit Rationale section below.

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VII. PERMIT RATIONALE

Regulations promulgated at LAC 33:IX.2707.A/40 CFR Part 122.44(a) require technology-based effluent limitations to be placed in LPDES permits based on effluent limitations guidelines where applicable, on BPJ (best professional judgment) in the absence of guidelines, or on a combination of the two. For the covered discharges, no effluent limitation guidelines have been promulgated so limitations are determined by BPJ.

The following section sets forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the permit.

Equivalency With Federal Requirements**1.0 Coverage under This Permit****1.1 Eligibility**

1.1.1 Activities Covered – EPA has 4 use patterns covered in their draft permit, a) Mosquito and Other Flying Insect Pest Control, b) Aquatic Weed and Algae Control, c) Aquatic Nuisance Animal Control, and d) Forest Canopy Pest Control. These same use patterns exist in LDEQ's draft permit.

1.1.2 Limitations on coverage

1.1.2.1 Discharges to Water Quality Impaired Waters-similar to EPA's permit, LDEQ's permit imposes restrictions on discharges to impaired waters, discharges containing pesticides to waterbodies which have suspected causes of impairments listed which include that pesticide as identified in the 303(d) list, and discharges containing restricted use pesticides to waterbodies which have suspected causes of impairments listed which include any pesticide as identified in the 303(d) list.

1.1.2.2 Discharges to Waters Designated as Tier 3 for Anti-Degradation purposes-similar to EPA's permit there are restrictions on discharges to Tier 3 (ONRW)

1.1.2.3 Discharges Currently or Previously Covered by another permit-similar to EPA's permit, coverage does not apply to facilities that have coverage under another LPDES permit

1.2 Authorization to Discharge under This Permit-similar to EPA's permit authorization is extended to dischargers who fall under the 4 use categorizations defined under Section I of the factsheet.

1.3 Alternative Permits-similar to EPA's permit, coverage under the general permit may be denied and individual coverage may be required

1.4 Severability- similar to EPA's permit, severability is specified in Part II, Section L of the draft permit.

2.0 Technology-Based Effluent Limitations- similar to EPA's permit, LDEQ addresses technology based limitations under Section B. FIFRA is incorporated as a BAT measure for the use of pesticides. The permit also incorporates by reference requirements from LDAF which include LAC 7:XXIII.143, 145, 149, 151, 157, 159, and 161. These sections all mandate BMP type requirements for pesticide dischargers. In addition, LDAF has a Water Protection program under Subchapter X which includes water monitoring program for pesticides. This provision does not exist in the EPA permit.

3.0 Water Quality-Based Effluent Limitations – similar to EPA's permit, water quality standards are also addressed in LDEQ's permit in Section B and also in Section G of Part II. LDEQ's permit by incorporation of LAC 7:XXIII.Subchapter X can also obtain sampling information regarding pesticides in surface waters. This provision does not exist in the EPA permit.

4.0 Site Monitoring – Sections 4.1 and 4.2 below are reflected in similar requirements stated in Section B of LDEQ's permit

4.1 Monitoring Requirements for Pesticide Applicators

4.2 Visual Monitoring Requirements for all Operators

5.0 Pesticide Discharge Monitoring Plan-Similar to EPA's permit, LDEQ's permit by reference incorporates

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- Sections 143, 145, 149, 151, 157, 159, 161, 175, 177, 179, 181, 183, 185, 187, 189, 191, 193, 195, and 197
- 6.0 Corrective Action-similar to EPA's permit, LDEQ's permit has provisions for corrective action under LDAF regulations, specifically LAC 7:XXIII.177, 189, 191, 193, 195, and 197.
- 7.0 Recordkeeping and Annual Reporting- similar to EPA's permit, LDEQ's permit requires record keeping and reporting specified under Section B of the permit and also by reference to LDAF regulations at LAC 7:XXIII.167

Technology Based Limitations

State Laws and Regulations

The application of pesticides in LA is regulated by the LA Department of Agriculture and Forestry (LDAF). The applicable state laws and regulations include the Louisiana Pesticide Law (L.R.S 3:3201-3310) and the pesticide regulations (LAC 7:XXIII). 'Pesticide' means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest and any substance or mixture of substances intended for use as a plant regulator, defoliant, desiccant, or any substance the commissioner (Commissioner of the LDAF) determines to be a pesticide.

State laws and regulations require that any substance used as a pesticide must have a FIFRA label and requires compliance with all instructions on a FIFRA label. L.R.S 3:3221 requires that any pesticide used in LA must be registered annually with the Commissioner of LDAF. A part of the registration includes the labeling of each pesticide.

Pesticides are divided into two categories by uses – general use pesticides and restricted use pesticides (L.R.S 3:3223). General use pesticide means a pesticide which is classified for general use by the Commissioner of LDAF or by EPA under FIFRA. These are pesticides which will not generally cause unreasonable adverse effects on the environment or injury to the applicator when applied in accordance with directions for use, warnings, and cautions. Restricted use pesticide means a pesticide which is classified for restricted use by the Commissioner of LDAF or by EPA under FIFRA. These are pesticides which may cause unreasonable adverse effects on the environment or injury to the applicator when applied in accordance with directions for use, warnings, and cautions.

- A. Some of the requirements of state laws and regulations include:
- a. Certification requirements for applicators, salespersons, and dealers of restricted use pesticides. Certification procedures include attending a course of instruction and passing an examination.
 - b. Licensing of owners or operators of a business engaged in the application of a pesticide for a fee. Requirements include:
 - b.1.1. Security bonds or liability insurance
 - b.1.2. Annual inspection of mechanically powered equipment by LDAF
 - b.1.3. 2 years of records reflecting the applications of pesticides. Records include:
 - b.1.3.1. Name of pesticide applied
 - b.1.3.2. Rate of application
 - b.1.3.3. Date of each application
 - b.1.3.4. Place of application
 - c. Certification and licensing of agricultural consultants

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- d. Any physician who treats a medical complaint which the physician diagnoses as caused by pesticide poisoning must notify LDAF.
 - e. Disposal and monitoring of pesticide wastes
 - f. Monitoring of ambient waters for the presence of pesticides. LDAF monitored 47 ambient sites at least quarterly between 1991 and 2008 and currently monitors semi-annually.
- B. Some specific requirements of the state pesticide regulations include but are not limited to, the following:
- a. No pesticide shall be sold, offered for sale, or distributed in this state without being registered by the manufacturer annually with LADF. This registration shall expire on December 31 of each year. (LAC 7:XXIII.111.A)
 - a.1. Each application for the initial registration of a pesticide and for the re-registration of a pesticide for which the label has been changed shall be accompanied by the following information:
 - a.1.1. the brand of the pesticide;
 - a.1.2. the name, address and contact person of the manufacturer of the pesticide;
 - a.1.3. two complete copies of the labeling of the pesticide, containing:
 - a.1.3.1. the specific name of each active ingredient in the pesticide;
 - a.1.3.2. the percentage of the active ingredients in the pesticide unless the proportion of the active ingredients are expressed in international units, or some other form of scientifically recognized and accepted measurement; in which case the proportion of active ingredients may be reported in that manner;
 - a.1.3.3. the percentage of the inert ingredients in the pesticide unless the proportion of the active ingredients in the pesticide are expressed in international units, or some other form of scientifically recognized and accepted measurement; in which case the proportion of inert ingredients may be reported in that manner;
 - a.1.3.4. the net contents of each package in which the pesticide will be sold;
 - a.1.3.5. a statement of claims made for the pesticide;
 - a.1.3.6. directions for the use of the pesticide, including warnings or caution statements;
 - a.1.4. the Material Safety Data Sheet (MSDS) prepared in accordance with the requirements of the Environmental Protection Agency;
 - a.1.5. the method for laboratory analysis if the pesticide is a pharmaceutical administered to livestock used for agricultural purposes;
 - a.1.6. such other information as the commissioner may require.
 - a.1.1. the brand of the pesticide;
 - a.1.2. the name, address and contact person of the manufacturer of the pesticide;
 - a.1.3. two complete copies of the labeling of the pesticide, containing:
 - a.1.3.1. the specific name of each active ingredient in the pesticide;
 - a.1.3.2. the percentage of the active ingredients in the pesticide unless the proportion of the active ingredients are expressed in international units, or some other form of scientifically recognized and accepted measurement; in which case the proportion of active ingredients may be reported in that manner;
 - a.1.3.3. the percentage of the inert ingredients in the pesticide unless the proportion of the active ingredients in the pesticide are expressed in international units, or some other form of scientifically recognized and accepted measurement; in which case the proportion of inert ingredients may be reported in that manner;
 - a.1.3.4. the net contents of each package in which the pesticide will be sold;
 - a.1.3.5. a statement of claims made for the pesticide;
 - a.1.3.6. directions for the use of the pesticide, including warnings or caution statements;
 - a.1.4. the Material Safety Data Sheet (MSDS) prepared in accordance with the requirements of the Environmental Protection Agency;
 - a.1.5. the method for laboratory analysis if the pesticide is a pharmaceutical administered to livestock used for agricultural purposes;
 - a.1.6. such other information as the commissioner may require.
 - b. Certification of applicators and salespersons relative to restricted use pesticides.
 - b.1. Certification includes scoring at least 70% on an examination prepared and administered by the Director of the Corporative Extension Service or his designee.
 - b.2. Certification is required for the following:
 - b.2.1. Private applicator – an individual who is certified to apply or supervise the application of any restricted use pesticide on lands owned by the individual or on land owned by another without compensation.
 - b.2.2. Commercial applicator – an individual who is certified to apply or supervise the application of restricted use pesticides in the course of his employment.
 - b.2.3. Pesticide salesperson – an individual who is certified to sell or supervise the sale of restricted use pesticides.

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c. Licensing

- c.1. Every owner-operator of a pesticide application business must have a current license issued by the commissioner before making any applications of pesticides. Licensing requirements include:
 - c.1.1. Proof of financial responsibility
 - c.1.2. List all commercial applicators employed on a regular basis
 - c.1.3. All mechanically powered pesticide application equipment must be inspected by LDAF and have a current decal from LDAF
 - c.1.4. All licenses must be renewed annually
- c.2. Pesticide dealers must be licensed by the commissioner prior to making any sale of restricted use pesticides.
 - c.2.1. No licensed pesticide dealer may sell, offer for sale, or hold for distribution any pesticide which has not been registered with the department.
 - c.2.2. All licenses must be renewed annually

d. General

- d.1. No person shall apply any pesticide which is not registered with the LDAF and the EPA, provided that this restriction shall not apply to:
 - d.1.1. activities conducted by persons certified in demonstration and research; and
 - d.1.2. activities conducted under an approved experimental use permit.
- d.2. No person licensed by the commissioner shall apply pesticides with mechanically powered pesticide application equipment which does not bear a current decal affixed by the commissioner.
- d.3. No person shall apply any ester compound of phenoxy herbicide containing an aliphatic alcohol radical with less than six carbon atoms at any location within Louisiana.
- d.4. All pesticides shall be applied in accordance with the FIFRA label and labeling requirements.
- d.5. All persons who apply pesticides aurally must be certified as commercial applicators.
- d.6. No person licensed by the commissioner may dispose of any unused portions of pesticides and/or rinsate of pesticides at any location other than a site approved by the commissioner.
- d.7. Commercial aerial pesticide applicators applying any concentrations of the agricultural chemicals shall not apply these chemicals from a height of greater than 18 feet above the target field crops.
- d.8. Inspections of commercial applicator operations
 - d.8.1. LDAF may inspect semi-annually or more often
 - d.8.2. Inspections include:
 - d.8.2.1. Physical surroundings
 - d.8.2.2. Records required
 - d.8.2.3. Take samples at any of the following locations:
 - d.8.2.3.1. Any site where an application of pesticides has been made
 - d.8.2.3.2. Any containment tank for pesticides which, upon disposal, are classified as hazardous waste
 - d.8.2.3.3. Any surface impoundment
 - d.8.2.3.4. Any wash pad
 - d.8.2.3.5. Any soils or water at any location on or adjacent to the base of operations
 - d.8.2.3.6. Any application equipment
- d.9. Record keeping requirements:
 - d.9.1. Any person applying pesticides for a fee and commercial applicators shall accurately

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maintain, for a period of two years, records of pesticide applications on a record keeping form or record keeping format approved by LDAF. Records described herein must be maintained, within three days of the application, at the physical address of the employer or the physical address on the owner/operator license. A copy of these records shall be provided to any employee of LDAF upon request at a reasonable time during normal working hours. The following information shall be included on that form:

- d.9.1.1. owner/operator name, address, and license number;
- d.9.1.2. certified applicator, name, address, and certification number;
- d.9.1.3. customer name and address;
- d.9.1.4. product/brand name;
- d.9.1.5. EPA registration number;
- d.9.1.6. restricted/general use pesticide;
- d.9.1.7. application date;
- d.9.1.8. crop/type of application;
- d.9.1.9. location of application;
 - d.9.1.10. size of area treated (acres, square feet, or minutes of spraying);
 - d.9.1.11. rate of application;
 - d.9.1.12. total amount of product (concentrate) applied;
 - d.9.1.13. applicator;
 - d.9.1.14. certification number of applicator (if applicable).

d.9.2. Non-fee commercial applicators described below shall accurately maintain, for a period of two years, records of applications of all pesticides on the appropriate record keeping form as described in d.9.1 above. Records described herein shall be maintained, within seven days of the application, at the physical address of the employer. A copy of these records shall be provided to any employee of LDAF upon request, at a reasonable time during normal working hours.

d.9.2.1. Industrial, Institutional, Structural, and Health Related Pest Control (Category 7).

This category includes commercial applicators and non-fee commercial applicators using, or supervising the use of, pesticides with restricted uses in, on, or around food-handling establishments; human dwellings; institutions, such as schools and hospitals; industrial establishments, including warehouses and grain elevators; and any other structures and adjacent area, public or private; and for the protection of stored, processed or manufactured products. This category has been subdivided into the following:

- d.9.2.1.1. applicators who apply or supervise the application of restricted use pesticides on a non-fee basis in, on or around institutions, motels, hotels, hospitals and like places as the owner or in the employ of the owner and for persons applying or supervising the application of any pesticide for grass and weed control and rodent and general pest control in, on, or around structures or grounds of government subsidized and administered housing and multiplex housing.
- d.9.2.1.2. applicators who apply, or supervise the application of, restricted use pesticides on a non-fee basis in, on, or around commercial grain elevators and other grain handling establishments, feed mills, flour

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mills, food processing plants, and other places where processed or unprocessed foods are stored, as the owner or in the employ of the owner.

- d.9.2.1.3. applicators who apply or supervise the application of pesticides on a non-fee basis for grass and weed control and rodent and general pest control (roaches, wasps, and ants) or restricted use pesticides, in, on, or around structures and grounds of schools that provide education for classes kindergarten through 12.
- e. The maximum contaminant level standards as published in 40 C.F.R. Parts 141, 142, and 143 (1991) shall be incorporated as standards for pesticides in waters of the state.
- f. Each physician who treats a health complaint that is diagnosed as caused by pesticide poisoning shall provide notice of the poisoning to the director of the LDAF Division of Pesticide and Environmental Programs via the 24-hour telephone hotline, (225) 925-3763, within 24 hours of the diagnosis and in writing posted within three days of the diagnosis. Each report shall contain the following:
 - f.1. the name, address, and telephone number of the treating physician;
 - f.2. the name, address, and telephone number of each patient treated;
 - f.3. date of treatment; and
 - f.4. the location of the facility where the reporting physician provided treatment.

Federal Law and Regulations

The Federal Pesticide Law is known as the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). It requires that all pesticides sold or distributed in the United States (including imported pesticides) to be registered by EPA. EPA can authorize limited use of unregistered pesticides or pesticides registered for other uses to address emergencies and special local needs.

Under the Federal regulations the term pesticides includes many kinds of ingredients in products, such as insect repellants, weed killers, disinfectants, and swimming pool chemicals which are designed to prevent, destroy, repel or reduce pests of any sort. Pesticides are found in nearly every home, business, farm, school, hospital and park in the US. EPA must evaluate pesticides thoroughly before they can be marketed and used in the US to ensure that they will meet federal safety standards to protect human health and the environment. Pesticides that meet the requirements are granted a license or 'registration' which permits their distribution, sale, and use according to specific use directions and requirements on the label.

The process of registering a pesticide is a scientific, legal, and administrative procedure through which EPA examines the ingredients of the pesticide; the particular site or crop on which it is to be used; the amount, frequency, and timing of its use; and the storage and disposal practices. In evaluating a pesticide registration application, EPA assesses a wide variety of potential human health and environmental effects associated with the use of the product. The producer of the pesticide must provide data from tests done according to EPA guidelines.

These tests evaluate whether a pesticide has the potential to cause adverse effects on humans, wildlife, fish, and plants, including endangered species and non-target organisms, as well as possible contamination of surface waters or ground water from leaching, runoff, and spray drift. Potential human risks range from short-

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term toxicity to long-term effects such as cancer and reproductive system disorders. EPA also must approve the language that appears on each pesticide label. A pesticide product can only be used legally according to the directions on the labeling accompanying it at the time of the sale. Following the label instructions carefully and precisely is necessary to ensure the safe use.

The following is a quote for EPA's Fact Sheet for the Vessel General Permit under the section Technology-Based Effluent Limits and Related Requirements in the Permit (4.3):

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

"FIFRA regulates the distribution, sale, and use of pesticides. One of the primary components of FIFRA requires the registration and labeling of all pesticides sold or distributed in the U.S. ensuring that if pesticides are used in accordance with the specifications on the label, they will not cause adverse effects on humans or the environment. It is a requirement of the permit that any registered pesticide must be used in accordance with its FIFRA label. This is included as a binding permit requirement because FIFRA label requirements are established after research, approved by the EPA Office of Prevention, Pesticides, and Toxic Substances, and ensure that the pesticide, when used according to the label, can be used so that it will not cause unreasonable adverse effects on humans or the environment."

The State Administrative Authority has made the determination that the application of pesticides in accordance with controls required by state laws and regulations and FIFRA laws and regulations represent the Best Available Technology (BAT).

Water Quality Based Limitations

Louisiana Surface Water Quality Standards (LAC 33:IX.Subpart I.Chapter 11.1109.E) provide for short-term activity authorization. It says, "The administrative authority may exempt from water quality standards certain short-term activities that the state determines are necessary to accommodate activities, emergencies, or to protect the public health and welfare. Such activities shall not cause long-term or permanent impact on designated water uses. These activities may include, but are not limited to, mosquito abatement projects, algae and weed control projects, and fish eradication projects."

The State Administrative Authority has made the determination that the application of pesticides in accordance with controls required by LDAF and the FIFRA label will comply with Louisiana's Surface Water Quality Standards. However, any application of a pesticide which results in a long-term or permanent impact on a designated water use will be subject to enforcement action and/or individual permit action under the Louisiana Environmental Quality Act.

Permit Conditions

This permit authorizes all dischargers that fall into one or more of the use categorizations defined in I. to discharge pesticides in accordance with state laws and regulations and FIFRA laws and regulations which include all instruction on the pesticide label.

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Dischargers are not required to submit a Notice of Intent (NOI) (LAC IX:2515.B.2.e) and are automatically covered upon the effective date of this permit. However, they are required to maintain all records and information required under LAC 7:XXIII.167.

No pesticide may be applied unless that pesticide is registered by LDAF.

No person shall apply a pesticide unless in accordance with state laws and LDAF regulations and FIFRA laws and regulations which include all instruction on the pesticide label.

No person shall apply a restricted use pesticide unless certified by LDAF.

No person shall own or operate a business engaged in the application of pesticides for a fee unless that person has the proper license from LDAF.

This permit also authorizes the discharge of storm water runoff from facilities which handle pesticides provided the pesticides are handled and stored in accordance with the label and there has been no spillage or leakage which has not been cleaned up. Storm water coverage under this permit is not applicable to facilities which qualify for coverage under the Multi-Sector General Permit, LAR050000.

This permit does not authorize other discharges (such as treated sanitary waste water, equipment wash water, or wash water from cleaning storage or mixing tanks) from facilities which handle pesticides.

Should any of the applicable state laws or regulations change during the term of this permit or should the FIFRA requirements change during the term of this permit, the State Administrative Authority may modify or revoke and reissue this permit.

Monitoring

In accordance with LDAF regulations (see LAC 7:XXIII.161, commercial applicators of pesticides are subject to semi-annual inspection by LDAF (or more frequently at the discretion of LDAF). Monitoring shall include:

- a. inspect the physical surroundings of the site to determine that all requirements of these regulations have been complied with;
- b. inspect the records required under LAC 7:XXIII.167, 169 and 171 of LDAF regulations;
- c. take samples, as determined by LDAF, at any of the following locations:
 - c.1. any site where an application of pesticides has been made by the applicator;
 - c.2. any base storage;
 - c.3. any containment tank for pesticides which, upon disposal, are classified as hazardous wastes;
 - c.4. any wash pad;
 - c.5. any soils or water, flowing or still, at any location on or adjacent to the base operation; or
 - c.6. any application equipment (i.e., hopper tanks and connections, mixing tank, etc.).

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Even though the specified monitoring (inspections) listed in LAC 7:XXIII.161 are from the LA Pesticide Regulations of the LDAF, authorized representatives of LDEQ shall have the same monitoring (inspection) authority plus all right of entry and inspection authority in accordance with the LA Environmental Quality Act.

Record Keeping

In accordance with LDAF regulations (see LAC 7:XXIII.167), any person applying pesticides for a fee and commercial applicators shall maintain, for a period of 2 years, records of pesticide applications. However, the time frame specified in the LDAF regulations is superseded by LDEQ regulations at LAC 33:IX.2701.J.2 which require a record retention time of 3 years. All permittees must retain records for a period of at least 3 years under the terms and conditions of this permit. Records must be available within 3 days of the application at the physical address of the employer or the physical address of the licensee. A copy of these records shall be provided to any employee of the department upon request at a reasonable time during normal working hours. The following information shall be recorded:

- a. owner/operator name, address, and license number;
- b. certified applicator, name, address, and certification number;
- c. customer name and address;
- d. product/brand name;
- e. EPA registration number;
- f. restricted/general use pesticide;
- g. application date;
- h. crop/type of application;
- i. location of application;
- j. size of area treated (acres, square feet, or minutes of spraying);
- k. rate of application;
- l. total amount of product (concentrate) applied;
- m. applicator;
- n. certification number of applicator (if applicable).

Non-fee commercial applicators described below shall accurately maintain, for a period of three years, records of applications of all pesticides on the appropriate record keeping form as described above. Records described herein shall be maintained, within seven days of the application, at the physical address of the employer. A copy of these records shall be provided to any employee of LDAF upon request, at a reasonable time during normal working hours.

- a. applicators who apply or supervise the application of restricted use pesticides on a non-fee basis in, on or around institutions, motels, hotels, hospitals and like places as the owner or in the employ of the owner and for persons applying or supervising the application of any pesticide for grass and weed control and rodent and general pest control in, on, or around structures or grounds of government subsidized and administered housing and multiplex housing.
- b. applicators who apply, or supervise the application of, restricted use pesticides on a non-fee basis in, on, or around commercial grain elevators and other grain handling establishments, feed mills, flour

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mills, food processing plants, and other places where processed or unprocessed foods are stored, as the owner or in the employ of the owner.

- c. applicators who apply or supervise the application of pesticides on a non-fee basis for grass and weed control and rodent and general pest control (roaches, wasps, and ants) or restricted use pesticides, in, on, or around structures and grounds of schools that provide education for classes kindergarten through 12. Each certified applicator shall annually train all persons applying pesticides under his/her supervision in the proper handling, storage, use, application and disposal of pesticides.

Reporting

Routine reporting is not required by this permit.

All uncontained spills of more than 1 gallon liquid or 4 pounds dry weight must be reported to the director of Pesticides and Environmental Programs of LDAF within 24 hours by telephone and by written notice within three days. Applicators are responsible for the cost of cleanups resulting from pesticide spills in their operations. (see LDAF regulation LAC 7:XXIII.177 B.)

See Part III, Section D.5 & 7 of the permit for other notification requirements (these are requirements in all LPDES permits).

VIII. PUBLIC NOTICES

The public notice describes the procedures for the formulation of final determinations.

Upon publication of the public notice, a public comment period shall begin on the date of publication and last for at least 30 days thereafter. During this period, any interested person may submit written comments on the permit. Any interested person may also submit a written request for clarification of issues related to the content of the general permit or the permit issuance process. Interested persons may also submit written requests for notification of the final permit decision or to request a public hearing to clarify issues involved in the permit decision. A request for a public hearing shall state the nature of the issues proposed to be raised in the hearing. The public notice specifies that written comments and/or written requests shall be submitted to the LDEQ Public Participation Group and that written comments and/or written requests must be received by the Department by a specific deadline.

Public notice will be published in:

THE ADVOCATE of Baton Rouge
LAKE CHARLES AMERICAN PRESS
THE ADVERTISER of Lafayette
THE TIMES of Shreveport
THE TIMES PICAYUNE of New Orleans
THE NEWS-STAR of Monroe
THE TOWN TALK of Alexandria
THE COURIER of Houma

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LDEQ Permits Public Notice Mailing List

LDEQ Permits Public Web Page at <http://www3.deq.louisiana.gov/news/pubnotice/default.asp>.

The draft permit and fact sheet will be available for review at the LDEQ Public Records Center, Room 127, 602 North 5th Street, Baton Rouge, Louisiana, during the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday (except holidays).

The Water Permits Division will send notification of the final permit decision to each person who has submitted written comments or a written request for notification of the final decision.

IX. ENDANGERED SPECIES ACT

The proposed limitations and conditions in this permit on the application of pesticides are identical to existing state and federal laws and regulations. Therefore, the state administratively authority has made the determination that this general permit is not likely to adversely affect or may affect a federally-listed species, designated critical habitat, jeopardize a proposed species, or adversely modify or destroy proposed critical habitat. In accordance with the MOUs between LDEQ and the US Fish and Wildlife Service and National Marine Fisheries Service, copies of this fact sheet and draft general permit are being conveyed to each agency.

X. NATIONAL HISTORIC PRESERVATION ACT

The proposed limitations and conditions in this permit on the application of pesticides are identical to existing state and federal laws and regulations. Therefore, the state administratively authority believes that this general permit will be protective of sites and properties listed on or eligible for listing on the National Register of Historic Places. In accordance with the MOU between LDEQ and the LA State Historic Preservation Office, a copy of this fact sheet and draft general permit are being conveyed to this agency.

XI. FEES

There are no fees associated with authorization to discharge under this general permit.

XII. SCHEDULE OF COMPLIANCE

The permittee is to be in compliance with the permit limitations and conditions as of the date of coverage under the general permit.

XII. FINAL DETERMINATION

On the basis of preliminary staff review, the Department of Environmental Quality has made a tentative determination to issue the permit for the discharges described above in Parts I of general permit LAG87000.

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Definitions (Also see definitions in Parts II and III of the permit)

"Agricultural consultant" means a person who, for a fee, provides technical advice, supervision, or recommendation in one or more of the categories under which agricultural consultants are licensed.

"Commercial applicator" means an individual who is certified to apply or supervise the application of restricted use pesticides in the course of his employment.

"Commissioner" means the Commissioner of LA Department of Agriculture and Forestry or his duly authorized representatives acting at his direction.

"Department" means the LA Department of Environmental Quality (LDEQ)

"Division" means the Division of Pesticide and Environmental Programs within the Office of Agricultural and Environmental Sciences within the LA Department of Agriculture and Forestry.

"EPA" means the US Environmental Protection Agency

"F.I.F.R.A." means the Federal Insecticide, Fungicide, and Rodenticide Act, P.L. 92-516, as amended.

"General use pesticide" means a pesticide which is classified for general use by the Commissioner or by the EPA under the F.I.F.R.A.

"Label" means the written, printed, or graphic material on, or attached to the pesticide or any of its containers or wrappers.

"Labeling" means all labels and all other written, printed, or graphic matter accompanying the pesticide at any time or to which reference is made on the label or in literature accompanying the pesticide.

"Manufacturer" means the person who owns or holds the rights to any brand under which a pesticide is sold.

"Office" means the Office of Environmental Services within the LA Department of Environmental Quality (LDAF)

"Package" means any parcel, bag, bottle, can, or other container which contains a pesticide.

"Person" means any individual, corporation, partnership, association, or other legal entity.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest and any substance or combination of substances intended for use as a plant regulator, defoliant, dessicant, or any substance the commissioner determines to be a pesticide.

"Pesticide dealer" means a person who is licensed to own or operate a business which engages in the sale of restricted use pesticides.

"Pesticide salesperson" means an individual who is certified to sell or supervise the sale of restricted use pesticides.

"Pesticide with restricted uses" means any pesticide for which the commissioner has established restrictions on the application of the pesticide during certain times or in certain locations.

"Private applicator" means an individual who is certified to apply or supervise the application of any restricted use pesticide for the purpose of producing any agricultural commodity on land owned or leased by the private applicator or for the purpose of applying or supervising the application of any restricted use pesticide on lands owned by another without compensation.

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"Restricted use pesticide" means a pesticide which is classified for restricted use by the commissioner or by the E.P.A. under the F.I.F.R.A.

"State Administrative Authority" means the chief administrative officer of any state operating an approved National Pollutant Discharge Elimination System (NPDES) program or the delegated representative of the state administrative authority.